IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH

AT HYDERABAD

THE HON'BLE SRI JUSTICE N.V.RAMANA

W.P.No. 33448 of 1997

Dated : 14.9.2005

Between:

Mahender Chopda & others.

.. Petitioners

and

Securities and Exchange Board of
India (SEBI), rep. by its Chairman
and others.

.. Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

W.P.No. 33448 of 1997

ORDER:

This writ petition is filed seeking a direction to respondent No.1 to cancel the registration of respondents 3 to 5 as per Regulation 25(2)(b) of the Security Exchange Board of India Stock Brokers and Sub-Brokers Regulations, 1992 and prosecute respondents 2 to 5 for their acts of commissions and omissions.

The case of the petitioners is that they have purchased shares of 2nd respondent-company from 4th respondent and sent them to 3rd respondent-processing cell for transfer in their favour, but the same were not transferred on the ground that they are debarred from trading. The petitioners have made a representation dated 17.10.1997 to the 1st respondent pointing out the irregularities and illegalities committed by the 4th respondent. As there was no response, the present writ petition is filed.

The 1st Respondent-SEBI filed a detailed counter affidavit denying the allegations made by the petitioners. It is stated that the petitioners have purchased the shares in the secondary market through a stockbroker of a recognized stock exchange and the petitioners have got effective alternative remedy of redressal before the said stock exchange against the broker who has delivered non-tradable shares. It is further stated, however on receipt of the complaint from the petitioners, the Investor Guidance and Grievance Division of 1st respondent took up the matter with the 2nd respondent company vide its letter dated 5.5.1997 and thereafter, the company also transferred some of the shares in favour of petitioners. It is also stated that the petitioners who are the shareholders of 2nd respondent company are empowered to initiate prosecution against the company or the officers concerned for violation of provisions of Section 113 of the Companies Act, 1956 before the Company Law Board. The petitioners have filed additional affidavit stating that after filing of writ petition, except 200 shares, all the shares were transferred and delivered in their favour, however, action should be initiated against respondents for the delay in delivering the shares.

Heard the learned counsel for petitioners and the learned counsel for respondents.

Earlier, this Court directed the learned Standing Counsel for 1st respondent to get instructions about the action taken against the 2nd respondent company. Today, when the matter came up for consideration, the learned Standing Counsel for 1st respondent, on instructions, submits that action was initiated against 2nd respondent company under the provisions of the Companies Act and the offence was compounded by levying Rs.1,25,000/- towards compounding fee.

In view of the above, no further orders are required to be passed in this writ petition and the same is accordingly dismissed. If the petitioners are still aggrieved by the action of the respondents, they are at liberty to initiate proceedings against them before appropriate forum, if so advised. No costs.

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N.V.RAMANA, J

Date: 14.9.2005

DA/MRR

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